



COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

RIN 3038-AD82

Aggregation of Provisions

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On November 15, 2013, the Commodity Futures Trading Commission (“Commission”) published in the Federal Register a notice of proposed rulemaking (the “Aggregation Proposal”) to amend existing regulations setting out the Commission’s policy for aggregation under its position limits regime. On the same day that the Commission adopted the Aggregation Proposal, it also adopted a proposal to establish speculative position limits for the 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts that previously had been covered by part 151 of its regulations (the “Position Limits Proposal”). However, the Position Limits Proposal was not published in the Federal Register until December 12, 2013. Because the comment period for both proposals was 60 days after publication in the Federal Register, the comment period for the Position Limits Proposal runs to a later date than the comment period for the Aggregation Proposal. In order to provide interested parties with an opportunity to comment on the Aggregation Proposal for so long as the comment period on the Position Limits Proposal is open, the Commission is extending the comment period for the

Aggregation Proposal so that it ends at the same time as the comment period for the Position Limits Proposal.

DATES: The comment period for the Aggregation Proposal published November 15, 2013, at 78 FR 68946, is extended until February 10, 2014.

ADDRESSES: You may submit comments, identified by RIN 3038-AD82, by any of the following methods:

- Agency website: <http://comments.cftc.gov>;
- Mail: Melissa D. Jurgens, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581;
- Hand delivery/courier: Same as mail, above; or
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow instructions for submitting comments.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in CFTC regulations at 17 CFR part 145.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from

<http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Stephen Sherrod, Senior Economist, Division of Market Oversight, (202) 418-5452, ssherrod@cftc.gov; Riva Spear Adriance, Senior Special Counsel, Division of Market Oversight, (202) 418-5494, radriance@cftc.gov; or Mark Fajfar, Assistant General Counsel, Office of General Counsel, (202) 418-6636, mfajfar@cftc.gov; Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission has long established and enforced speculative position limits for futures and options contracts on various agricultural commodities as authorized by the Commodity Exchange Act (“CEA”).¹ The part 150 position limits regime,² generally includes three components: (1) the level of the limits, which set a threshold that restricts the number of speculative positions that a person may hold in the spot-month, individual month, and all months combined,³ (2) exemptions for positions that constitute bona fide

¹ 7 U.S.C. 1 *et seq.*

² *See* 17 CFR part 150. Part 150 of the Commission’s regulations establishes federal position limits on certain enumerated agricultural contracts; the listed commodities are referred to as enumerated agricultural commodities.

³ *See* 17 CFR 150.2.

hedging transactions and certain other types of transactions,⁴ and (3) rules to determine which accounts and positions a person must aggregate for the purpose of determining compliance with the position limit levels.⁵ The Aggregation Proposal, generally speaking, sets out proposed changes to the Commission's regulations relating to the third component of the position limits regime.⁶

The Commission has also adopted the Position Limits Proposal, proposing to establish speculative position limits for 28 exempt and agricultural commodity futures and option contracts, and physical commodity swaps that are "economically equivalent" to such contracts (as such term is used in section 4a(a)(5) of the CEA).⁷

The Commission adopted the Aggregation Proposal and the Position Limits Proposal separately because it believes that the proposed amendments regarding aggregation of positions could be appropriate regardless of whether the Position Limits Proposal is adopted. The Commission anticipates that it could adopt either of the proposals separately from the other, but if both proposals are finalized, the modifications in the Aggregation Proposal would apply to both the current position limits regime for futures and option contracts on nine agricultural commodities and to the position limits regime for 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts that was proposed in the Position Limits Proposal.⁸

⁴ See 17 CFR 150.3.

⁵ See 17 CFR 150.4.

⁶ See Aggregation of Positions, 78 FR 68946 (Nov. 15, 2013).

⁷ See Position Limits for Derivatives, 78 FR 75680 (Dec. 12, 2013).

⁸ See Aggregation Proposal, 78 FR at 68947.

II. Extension of Comment Period

Subsequent to issuing the Aggregation Proposal, the Commission has received four written comments from interested parties requesting that the Commission extend the comment period so that it would end at the same time as the comment period for the Position Limits Proposal.⁹ In general, these commenters said that because of the related nature of the two proposals, it would be more practicable to formulate comments on both the proposals at the same time. The commenters pointed out, for example, that in certain instances the comments to be made on an aspect of one of the proposals may depend on views regarding the other proposal. The Commission also notes that these requests for an extension of time were made by several groups representing a wide variety of market participants who are interested in commenting on the Aggregation Proposal.¹⁰

In light of the comments received, the Commission is extending the comment period for the Aggregation Proposal to align with the comment period for the Position Limits Proposal. Thus, both comment periods will end on February 10, 2014.

Issued in Washington, DC, on January 9, 2014, by the Commission.

Christopher J. Kirkpatrick,

Deputy Secretary of the Commission.

⁹ See letter from the Asset Management Group of the Securities Industry and Financial Markets Association and the International Swaps and Derivatives Association dated December 20, 2013; letter from Sutherland Asbill & Brennan LLP on behalf of The Commercial Energy Working Group dated December 23, 2013; letter from the Edison Electric Institute, the Energy Power Supply Association and the American Gas Association dated January 3, 2014; and letter from the Futures Industry Association, Inc. ("FIA"), dated January 3, 2014. These letters, and other comments received on the Aggregation Proposal, are available at <http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1427>.

¹⁰ FIA noted that it "supports the Commission's decision to propose, and if possible, finalize a well-crafted Aggregation Proposal as expeditiously as possible." FIA requested the Commission "not delay adopting a final aggregation rule pending finalization of the 2013 Position Limits Proposal." See January 3, 2014, letter at footnote 4.

NOTE: The following appendix will not appear in the Code of Federal Regulations.

**Appendix to Extension of Comment Period for the Rulemaking Amending the
Aggregation Provisions of Part 150 – Commission Voting Summary**

On this matter, Acting Chairman Wetjen and Commissioners Chilton and O'Malia voted in the affirmative. No Commissioner voted in the negative.

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